

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

KASEEM CLARK

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CRIMINAL NO. 14-282-1

CIVIL NO. 15-4833

ORDER

AND NOW, this 31st day of March, 2016, upon consideration of the pro se motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (Doc. no. 38), and the response thereto, it is hereby **ORDERED** that the motion is **DENIED**.

It is **FURTHER ORDERED** that a certificate of appealability shall not issue.

It is **FURTHER ORDERED** that the “Government’s Motion to Dismiss Defendant’s Motion Under 28 U.S.C. 2255” (Doc. no. 40) is **DENIED AS MOOT**.¹

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.

¹ As I explained in my memorandum opinion, the Government styles its response as a motion to dismiss because it contends that some of Petitioner’s arguments are waived because of an appellate waiver which was incorporated into the plea agreement. I have however construed Petitioner’s arguments as relating to the alleged ineffective assistance of counsel, which is a subject that falls outside of the scope of the appellate waiver.